

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 29 1993

In the Matter of)

Tariff Filing Requirements for)
Nondominant Common Carriers)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
CC Docket No. 93-36

Opposition

MCI Telecommunications Corporation (MCI) hereby opposes the "Petition Of Ad Hoc Telecommunications Users Committee For Partial Reconsideration" filed herein on September 22, 1993. Said Petition argues for the imposition of substantial tariff-related regulation on non-dominant carriers because of their perceived capability to legally alter commitments made to customers via the unilateral act of filing tariffs. The Committee refuses to accept the proposition that competitive forces ensure that non-dominant carriers will not act in a manner that would serve to undermine and damage their integrity and reputation in the marketplace.

MCI will not address the specifics of the Committee's proposals other than to point out that they clearly run counter to the deregulatory environment the Commission is seeking to foster, in the public interest. However, MCI is compelled to address a Committee allegation concerning MCI, which apparently was made, unfortunately, in the mistaken belief it proves that "experience show[s] competitive forces alone are not sufficient to assure that contracts are honored."^{1/}

^{1/} Committee Petition at ii.

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The Committee cites Brookman & Brookman, P.C. v. MCI, 86 Civ. 7040 (CSH), D.D.N.Y. (judgment entered June 19, 1991) as an example of a nondominant carrier, specifically, MCI, successfully asserting tariff supersession over an allegedly inconsistent contract right of the customer. The Committee then concludes: "MCI was evidently not deterred by competitive forces from relying on its tariff in the face of an allegedly inconsistent contract."^{2/}

Brookman & Brookman v. MCI, in fact, was a class action suit involving a calling card issued by Satellite Business Systems (SBS), a company acquired by MCI in 1986. The plaintiff contended that, SBS's tariff notwithstanding, it had entered into an oral agreement with SBS pursuant to which SBS's calling card rates and features were "permanent;" that is, fixed forever, and never to be modified -- no matter the circumstance. Not only was there no written agreement to said effect, there was no evidence that any representative of SBS had ever made such a promise. Furthermore, the SBS calling card was provided exclusively under a tariff, as distinct from pursuant to contract under the Commission's "forbearance rule."

This particular case does not serve the Committee's position well. It has no application in situations where actual written service contracts exist between MCI and its customers. Additionally, MCI submits, it has never entered into a written contract with a customer that was signed by an authorized MCI

^{2/} Id at n. 4.


representative and thereafter not honored according to its terms. Given the membership of the Committee and the fact that MCI has entered into telecommunications service arrangements with most of the individual members at one time or another, the Committee might cite a member's bad experience with MCI in this arena -- if one existed -- and avoid having to rely upon irrelevant precedent and innuendo to support its position.

In view of the foregoing, the Committee's Petition should be denied.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:


Donald J. Elardo
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 887-2006

Its Attorney

Dated: October 29, 1993

CERTIFICATE OF SERVICE

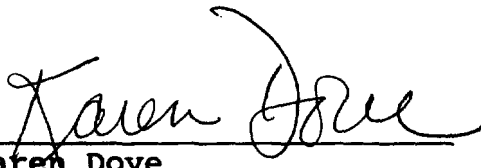
I, Karen Dove, do hereby certify that true and correct copies of the foregoing Opposition were served the 29th day of October, 1993, by first-class mail, postage prepaid, on the parties listed below:

James S. Blaszak
Patrick J. Whittle
Gardner, Catron & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005

Kathleen B. Levitz
Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

Gregory J. Vogt
Federal Communications Commission
1919 M Street, N.W.
Room 518
Washington, D.C. 20554

James D. Schlichting
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554


Karen Dove